



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2012

Mr. Mark LaForge
Assistant District Attorney
Fort Bend County
301 Jackson
Richmond, Texas 77469-3108

OR2012-09036

Dear Mr. LaForge:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 455942.

The Fort Bend County District Attorney's Office (the "district attorney's office") received a request for the offense reports and summaries related to two specified cases. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct by a child that

¹Although you raise section 552.101 of the Government Code in conjunction with sections 552.130 and 552.147 of the Government Code, we note section 552.101 does not encompass exceptions found within the Act.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

occurred on or after September 1, 1997. Fam. Code § 58.007(c). The relevant portion of section 58.007 provides:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. § 58.007(c). *See also id.* § 51.02(2) (defining “child” as a person who is ten years of age or older and younger than seventeen years of age). You assert, and we agree, report 06-6216 involves delinquent conduct by a child that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” for purposes of section 58.007). Further, it does not appear any of the exceptions in section 58.007 apply. Therefore, report 06-6216 is confidential under section 58.007(c) of the Family Code and the district attorney’s office must withhold it under section 552.101 of the Government Code.³

Section 552.101 of the Government Code also encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10–12. Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See Gov’t Code* § 411.083. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). Upon review, we find the district

³As our ruling is dispositive we do not address your remaining arguments against disclosure for this information.

attorney's office must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit, or a motor vehicle title or registration, issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1), (2). Accordingly, the district attorney's office must withhold the information we have marked under section 552.130 of the Government Code.⁴ The remaining information you have marked is not subject to section 552.130 of the Government Code and may not be withheld on that basis.

Section 552.147 of the Government Code provides, "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. The district attorney's office may withhold the social security numbers we have marked under section 552.147 of the Government Code.⁵ The remaining information you have marked is not subject to section 552.147 and may not be withheld on that basis.

In summary, the district attorney's office must withhold report 06-6216 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The district attorney's office must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The district attorney's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The district attorney's office may withhold the social security numbers we have marked under section 552.147 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

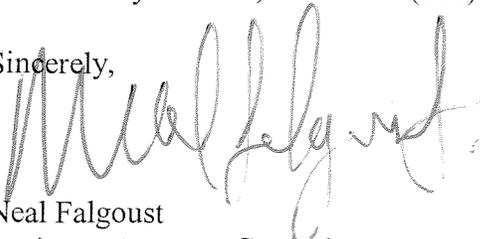
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

⁴We note section 552.130 of the Government Code permits a governmental body to redact information subject to subsections 552.130(a)(1) and 552.130(a)(3) without the necessity of requesting a decision from this office. See Gov't Code § 552.130(c)-(e). We also note Open Records Decision No. 684 permits a governmental body to redact a Texas license plate number under section 552.130 of the Government Code without the necessity of requesting a decision from this office. See Open Records Decision No. 684 (2009).

⁵We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. See Gov't Code § 552.147(b).

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Neal Falgoust".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 455942

Enc. Submitted documents

c: Requestor
(w/o enclosures)